



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed September 22, 2015, under Wis. Admin. Code §HA 3.03, to review a decision by the Crawford County Department of Human Services in regard to FoodShare benefits (FS), a telephonic hearing was held on October 14, 2015, at Prairie Du Chien, Wisconsin.

The issue for determination is whether the county agency is correctly seeking recovery of a FoodShare (FS) overpayment of \$1,298 during the months of April and May, 2015, due to petitioner failing to timely report to the agency her return to her employment and her increased income resulting in household net income above the FS net income eligibility limits for a group of four.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], ESS
Crawford County Department of Human Services
225 N Beaumont Rd., Suite 326
Prairie Du Chien, WI 53821

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Crawford County who resides in a household of four (petitioner, her two children, and her boyfriend, [REDACTED] (who is also the father of one of her children).

- [REDACTED]
2. The petitioner received FoodShare (FS) benefits during at least the period of December, 2014 through May, 2015 for a FS group of four.
 3. The county agency informed petitioner in the December 24, 2014 notice, her “reporting requirement” requiring her to timely report changes in her household’s employment and income to the county agency. That notice stated specifically that if petitioner’s household’s income went above \$1,649.17 she was required to report that increased income to the agency by the 10th of the month following that change, per FS Handbook, 6.1.1.1.
 4. The petitioner return to employment and income went above the reporting requirement during February, 2015. Petitioner failed to report that employment and income to the agency by March 10, 2015.
 5. The agency “discovered” that petitioner had returned to employment in petitioner’s May 6, 2015 online FS renewal application.
 6. If petitioner had timely reported all of her increased earned income, then her household’s net income of \$2,584.51 would have been above the FS net income eligibility limits (\$1,988) for a FS group of four for each of the months of April and May, 2015.
 7. The county agency sent a July 31, 2015 FoodShare Overpayment Notice to the petitioner stating that she received an overpayment of \$1,298 during the months of April and May, 2015, due to her failure to report her return to employment and her increased earned income due to client error. As a result, petitioner’s household income of \$2,584.51 was above the FS net income eligibility limit of \$1,988 for a FS group of four.

DISCUSSION

All FS applicants and recipients have a duty to accurately and truthfully report income to the county agency. 7 C.F.R. §273.12, “Reporting requirements.” Furthermore, a FS recipient has the duty to cooperate in provide accurate and true income information on both his/her FS application and during later reviews. The FS recipient is also required to cooperate with the county agency in verifying all household income in order for the county agency to accurately determine a FS application or recipient’s FS eligibility and benefits. 7 C.F.R. §273.2(d), “Household cooperation.” As explained in the above Findings of Fact, petitioner failed to timely report her return to employment and her increased February, 2015 earned income by the 10th of the month following that increase (by March 10, 2015) which affected her April, 2015 FS eligibility and benefits).

The Department is required to recover all overpayments of public assistance benefits. An overpayment occurs when an FS household receives more FS than it is entitled to receive. 7 C.F.R. §273.18(a). The federal FS regulations provide that the agency shall establish a claim against an FS household that was overpaid, even if the overpayment was caused by agency error. 7 C.F.R. §273.18(a)(2)(emphasis added).

During the October 14, 2015 hearing, the county agency representative, ESS [REDACTED], presented a well-organized case, and established that the petitioner failed to timely report to the county agency her return to employment and resultant increased income. The increased income was discovered through a May 6, 2015 online re-application by petitioner. As a result, petitioner’s increased employment income was not budgeted as income to the FS household in determining the petitioner’s FS household eligibility and benefits for the months of April and May, 2015. The county agency established that petitioner’s net household income was above the income budgeted by the county (due to petitioner’s failure to timely report her increased employment income) resulting in income ineligibility during the FS overpayment period. The petitioner did not contest that she had received FS benefits during April and May, 2015. Furthermore, petitioner did not offer any evidence to refute the accuracy of the county’s FS overpayment determination of \$1,298.00 for that overpayment period.

[REDACTED]

During the hearing, petitioner alleged with no corroboration that she informed some person at the agency that she had returned to employment. The county representative responded that there was no evidence at the agency that petitioner had reported her return to work and/or her increased earned income. The petitioner was unable to provide any reliable evidence of such alleged notification to the agency or any evidence to refute that her household net income was above the FS net income eligibility limit for April and May, 2015.

The petitioner generally contended that it was unfair that the county agency was seeking recovery of the overpayment. However, controlling federal regulation requires establishment of a claim against a household for a FS overpayment regardless of whose error caused the overpayment to occur: **"The State agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive . . . "** 7 C.F.R. §273.18(a); see also FoodShare Wisconsin Handbook, Appendices 7.3.1.9 and 7.3.1.1. Accordingly, based upon the above, I conclude that the county agency is correctly seeking recovery of a FoodShare (FS) overpayment of \$1,298 during the months of April and May, 2015, due to petitioner failing to timely report to the agency her return to her employment and her increased income resulting in household net income above the FS net income eligibility limits for a group of four.

CONCLUSIONS OF LAW

The county agency is correctly seeking recovery of a FoodShare (FS) overpayment of \$1,298 during the months of April and May, 2015, due to petitioner failing to timely report to the agency her return to her employment and her increased income resulting in household income above the FS net income eligibility limits for a group of four.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.



APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 20th day of November, 2015

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 20, 2015.

Crawford County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability